

FILED

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

**FEB 10 2010
SECRETARY, BOARD OF
OIL, GAS & MINING**

IN THE MATTER OF THE REQUEST FOR :
AGENCY ACTION OF ENERPLUS :
RESOURCES (USA) CORPORATION FOR AN :
ORDER TO FORCE POOL THE INTERESTS OF :
ALL OWNERS REFUSING OR FAILING TO :
AGREE TO LEASE THEIR INTEREST OR :
OTHERWISE BEAR THEIR PROPORTIONATE :
SHARE OF THE COSTS OF DRILLING AND :
PRODUCTION OPERATIONS OF THE LIVSEY :
25-15 WELL DRILLED IN SECTION 25, :
TOWNSHIP 2 SOUTH, RANGE 1 WEST, :
USM, UINTAH COUNTY, UTAH. :

**REQUEST FOR AGENCY
ACTION**

Docket No.: 2010-013

Cause No.: 13/-128

ENERPLUS RESOURCES (USA) CORPORATION (“Petitioner”), by and through its attorneys, Holme Roberts & Owen, pursuant to Utah Code Ann. §§ 40-6-5 and 40-6-6.5, hereby request the Utah Board of Oil, Gas and Mining (the “Board”) to enter an order force pooling the interests of all owners who have refused or failed to agree to lease or otherwise bear their proportionate share of the costs of drilling and production operations for the Livsey 25-15 Well (“Well”) drilled in Section 25, Township 2 South, Range 1 West, USM (“Subject Lands”). In support of this request, Petitioner respectfully states and represents that:

1. Petitioner is a Delaware corporation in good standing having its principal place of business in Calgary, Alberta, Canada. Petitioner is qualified to do business in Utah and is fully and appropriately bonded with all Federal and State of Utah agencies.

2. The Board has jurisdiction of the parties and of the subject matter of this Request pursuant to Utah Code Ann. § 40-6-1, et seq.

3. Petitioner is the operator of the Well spudded December 14, 2009 with an intent to complete in the Wasatch Formations in subject Section 25.

4. The lands contained in this request were previously spaced under Cause No. 131-14, establishing 640-acre (or corresponding governmental section) drilling and spacing units for the production of oil, gas and associated hydrocarbons for the Lower Green River/Wasatch Formations and amended by Cause No. 139-42, permitting 2 wells per drilling unit, among other well siting changes.

5. The subject Section 25 is held entirely in fee (private) ownership of which 81.464299% has been leased or is otherwise participating in the Well. Petitioner, together with the other participating working interest owners, own or control 86.354472% of the total leased or participating interest in the spacing unit. The remaining 13.645528% of the leased or participating interest is owned by Devon Energy Production Company, L.P. ("Devon").

6. The names and addresses (if available) of all persons required by statute to be served or whose legally protected interests may be effected by this Request (being all royalty, overriding royalty, mineral interest and record title/working interest owners within the Subject Lands) as shown by the official records, are set forth in Exhibits "A" and "B" to the Affidavit of Jeff Schroeder filed concurrently herewith.

7. There are 63 undivided mineral interest owners ("Owners") in the subject Section 25. Of the 63 Owners, 50 have been leased (22 by Petitioner and 28 by Devon)

and 1 has agreed to participate in the Well. Thus, 12 owners remain unleased or have not otherwise agreed to participate in the well.

8. Petitioner sent Devon a letter dated October 14, 2009, providing the opportunity to participate in the well or negotiate a farmout agreement as a leasehold interest owner. Devon has not elected to participate and Petitioner has been unsuccessful in its attempt to enter into a farmout agreement with Devon.

9. Petitioner has submitted, or attempted to submit, in writing good faith offers to lease the Owners' mineral interests or to voluntarily participate in the drilling of the Well to each of the Owners.

10. Despite diligent efforts over the past year, Petitioner has been unable to locate valid addresses for 5 of the Owners, or their heirs, in subject Section 25. As a result of the Owners being unlocatable, Petitioner has attempted but been unable to submit in writing its good faith offers to lease the Owners' mineral interests or to voluntarily participate in the drilling of the Well as unleased working interest owners. The Petitioner has also been unable to notify the Owners of Petitioner's intent to file this Request to force pool their interests and the effect of such force pooling.

11. In addition to those Owners for whom the Petitioner cannot locate valid addresses, 2 owners have refused to accept certified mailings containing the offers to lease the Owners' mineral interests or to voluntarily participate in the drilling of the Well. Petitioner has proceeded as if these address were invalid and the parties unlocatable.

12. Petitioner, by separate Ex Parte Motion, filed concurrently herewith, moved the Board for service of the Notice of Hearing for this Request by publication on all unlocatable Owners in the Subject Lands.

13. To date, the locatable unleased and unlocatable Owners have not agreed to bear their proportionate share of the costs of drilling and operation of the Well and are deemed “Nonconsenting Owners” under Utah Code Ann. § 40-6-2(11) and other applicable law. A list of the Nonconsenting Owners is attached as Exhibit “1” hereto.

14. By filing this Request, Petitioner seeks an assessment of a non-consent penalty of 300% chargeable against the nonconsenting/nonlocateable Owners’ share of costs.

15. The forced pooling requested herein should be ordered effective as of and relate back to the date of first production set forth herein above.

WHEREFORE, Petitioner respectfully requests:

1. That this matter be set for hearing at the scheduled meeting of the Board on March 24, 2010;

2. That notice of such hearing be given as provided by law; and

3. That, upon evidence produced at the hearing, the Board issue an order:

(a) Force pooling all nonconsenting and nonlocateable Owners in subject Section 25, and apportioning the costs of drilling, operation and production of the Livsey 25-15 Well and assessing as to such Owners a non-consent penalty of 300% together with a reasonable interest charge as just and reasonable compensation to the consenting Owners for the risks of undertaking the drilling and operation of the Well.

(b) Providing for a weighted average royalty payable to such nonconsenting and nonlocateable Owners in subject Section 25 until the consenting Owners have recovered 100% of the costs of drilling, operation and production for the Well together with the nonconsent penalty as may be ordered by the Board.

(c) Making such findings, conclusions and orders in connection with this Request as it deems necessary and appropriate; and

(d) Providing for such other and further relief as may be just and equitable under the circumstances.

Respectfully submitted this 10th day of February, 2010.

HOLME ROBERTS & OWEN

By: 

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Petitioner's Address:

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EXHIBIT “1”

Nonconsenting Owners

Devon Energy Production Company, L.P.

Croff Oil Company

El Paso E&P Company, L.P.

Aaron D. Rasmussen

Max D. Rasmussen

Michael D. Pierson

Deanna Kay Sargeant

Nicole Massey

Julie Massey

Naomi Allred aka Naomi Allred Roll

Slover Minerals, L.P.

Dusty Sanderson

C.D. LaSusa